

MINUTES

INDIANA STATE BOARD OF DENTISTRY

FEBRUARY 1, 2008

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Burns called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Jill Burns, D.D.S., President
Laverne Whitmore, L.D.H. B.S., Vice President
Galen Williams, D.D.S., Secretary
Matthew Miller, D.D.S.
Richard T. Newton, II, D.D.S.
Gary Haller, D.D.S.
Philip Catey, D.D.S.
Steven Hollar, D.D.S.
Clance LaTurner, Consumer Member

Board Members Absent:

Charles Heape, D.D.S.
Theodore Rokita, D.D.S.

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Liz Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda, as amended.

WILLIAMS/LaTURNER
Motion carried 9-0-0

III. ADOPTION OF THE MINUTES FROM THE JANUARY 4, 2008 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes with corrections of the January 4, 2008 meeting of the Board.

WHITMORE/WILLIAMS
Motion carried 9-0-0

IV. APPEARANCES

A. PROBATIONARY

1. State of Indiana v. Daniel J. Fink, D.D.S., License No. 12007602A
Administrative Cause No. 2006 DB 0006

Dr. Fink appeared before the Board, as requested, regarding his probationary status. Dr. Fink provided the Board with his new address and phone number. He stated he is not currently taking any medications. He explained that his previous employment offer fell through due a local newspaper reporter who made numerous calls asking questions regarding his past which led to disciplinary action. He told the Board he has some job opportunities in Illinois and is in the process of seeking licensure there. He requested the Board send verification of his Indiana license to him and understood that copies of the litigation would be sent with it.

2. State of Indiana v. Christopher Leonard, D.D.S., License No. 12009363A
Administrative Cause No. 2005 DB 0002

Dr. Leonard appeared before the Board, as requested, regarding his ongoing probationary status. He reported that he has been completing his community service at the Esperanza Center located in Greenwood, Indiana. Dr. Leonard stated that he will continue to volunteer as it has been very rewarding for him to provide free dental care. He submitted three letters to the Board attesting to his community service work. He told the Board his wife has not been associated with his practice in any way. The Board advised his next personal appearance is scheduled for April 4, 2008.

3. State of Indiana v. Teresa Michelle McCrady, D.D.S., License No. 12010271A
Administrative Cause No. 2006 DB 0003

Dr. McCrady appeared before the Board, as requested, regarding her ongoing probationary status. She had no problems to report and stated things were going very well. She is not currently taking any medications. She stated that goes to drug court the first Monday of every month and will start doing community services in the drug court for new participants sharing her experiences. She is also seeing an addictions counselor. Dr. McCrady expressed her intent to request an administrative hearing in March to modify the terms of her probation.

B. APPLICATION

C. RENEWAL

1. Chad B. Hoecker, D.D.S., License No. 12010776A

Dr. Hoecker appeared before the Board, as requested, regarding his application for renewal of his Indiana dental license. On his application he answered "yes" to question #1 asking, "Since you last renewed, has any health profession license, certificate, registration, or permit you hold or have held been disciplined or are formal charges pending?" He explained that he owns several practices called Ocean Dental in several states and he opened a practice in Ohio for patients ages 1-20. AT&T placed his business advertisement in the Yellow Pages under pediatric dentistry. He explained that he did not request that it was an assumption they made on their own. He entered into evidence Exhibit "A" which is a letter from AT&T admitting it was their error and they removed it from that section of the phone book. He explained that Ohio laws do not allow dentists to limit their practices to specialties. The definition of pediatric dentistry is for the ages of 1-18 so he felt by extending his age range to 20 years that it could not be

said they were a pediatric specialty office. The Ohio Dental Board advised him he was not to limit his practice and all ages need to be accepted. Dr. Hoecker signed a consent agreement with Ohio whereby his license was placed on probation for one (1) year subject to certain terms and conditions. Dr. Hoecker told the Board he is licensed in several states and upon learning of the disciplinary action taken in Ohio the Pennsylvania Board has a policy to levy the same discipline as a neighboring state so his license in Pennsylvania was also disciplined on Probation for one (1) year with terms and conditions. Dr. Hoecker was asked how many states he holds a license and what happened with those other states. He recalled being licensed in Ohio, Pennsylvania, Indiana, Oklahoma, Nebraska, Washington, and Alaska. He stated he received a warning letter from some states but other states do not have laws against specialty practices. He advised he lives in Stillwater, Oklahoma and typically does not practice in the other states. He stated he practices very little and is mostly involved in business aspect. He expressed pride in business venture and feels he is providing great service and care for patients at all of his offices. Dr. Hoecker explained he employs regional managers who are dentists and they look after the practices in the other states. They conduct audits and rely on office managers and district managers to make sure offices are being run correctly. Dr. Hoecker told the Board he has not yet opened an office in Indiana but would like to in the future. The Board questioned his ability to maintain so many licenses with various continuing education requirements. He stated he has an employee to track what is required for each state and he attends the larger state conferences to get most of his continuing education.

Board Action: A motion was made and seconded to approve the renewal of Dr. Hoecker's license upon submission of his continuing education certificates that show he has met the requirements for Indiana.

WHITMORE/LaTURNER

Motion carried 7-1-1

Dr. Hollar dissented and Dr. Burns abstained

V. ADMINISTRATIVE HEARINGS

- A. State of Indiana v. Trevor Treasure, D.D.S., License No. 12010719A**
Administrative Cause No. 2007 DB 0002
Re: Final Hearing

Parties and Counsel Present:

Respondent was present and was represented by Counsel Susan Ziel
Heather Kennedy, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:

Dr. Burns (Hearing Officer)
Ms. Whitmore, L.D.H., B.S.
Dr. Williams
Ms. LaTurner
Dr. Newton
Dr. Miller
Dr. Hollar
Dr. Catey
Dr. Haller

Case Summary: The state presented a settlement agreement to the Board for review. The settlement agreement would place Dr. Treasure license on probation with terms and conditions. The Respondent practiced oral and maxillofacial surgery in Texas prior to moving to Indiana. While in Texas he was prescribed Xanax and Remeron for depression and a panic disorder in January 2003. He became dependent on Benzodiazepines for sleep, and went into treatment from March 27, 2004 to June 9, 2004 at Marworth Physician Treatment Program in Waverly, Pennsylvania. The Respondent was diagnosed with Bipolar II disorder and was voluntarily monitored by the Dallas County Medical Society/Texas Medical Association from June 10, 2004 until February 2005. The Respondent applied for a dental license in Indiana on December 2, 2004 and on his application answered "no" to question #3 which asked, "Are you now or have you ever been treated for a drug abuse or alcohol problem?" The Respondent accepted a position at Indiana University School of Dentistry as Program Director in Oral and Maxillofacial Surgery starting March 1, 2005. On April 13, 2006 the Respondent began his ISMA Impaired Physician monitoring program, where he signed a 5 year contract. On April 17, 2006, the Respondent wrote a letter to the Board admitting that "he made a terrible mistake by not notifying the Board or being monitored by ISMA when he came to Indianapolis." The Respondent acknowledged that he had a return of his bipolar disease in January 2006 which led him to divert narcotics (Fentanyl) from his private outpatient business office in order to self-medicate his symptoms. The Respondent took a voluntary leave of absence on February 3, 2006 and admitted himself for treatment on February 6, 2006 for relapse of chemical dependency and Bipolar II at Rush Behavioral Health. The Respondent told the Board that he answered "no" on his application because he wanted to get back into academics and wanted the position at Indiana University and he was afraid the Board would deny him a license upon learning of his past drug addiction. He indicated that Indiana University was also unaware of his past when they offered him the position. He stated he regrets lying about it and is very sorry. Respondent's Counsel informed the Board that the faculty at the dental school are supporting him and have put safeguards in place to ensure that he does not have access to narcotics. The respondent stated that he oversees twelve (12) residents and they are all aware of his problem and he is very comfortable with the safeguards that have been put into place. Respondent lost privileges at one hospital but has retained his privileges at three other hospitals. He stated he currently has patients at Methodist and is on-call there seven nights a month for facial trauma victims. He advised he voluntarily relinquished his DEA registration in April 2006. Respondent's Counsel entered into evidence Exhibit A which is a letter from ISMA attesting to the Respondent's compliance with their program. The State presented the Board with a settlement agreement whereby the Respondent's license would be placed on Indefinite Probation for a period of five (5) years subject to certain terms and conditions. He would not be eligible to apply for reinstatement for at least three (3) years.

Board Action: A motion was made and seconded to reject the proposed settlement agreement and recess the hearing so that the parties can discuss amendments and new terms with the dental board designee that would be consistent with past practices of the Board in similar cases.

MILLER/HOLLAR
Motion carried 9-0-0

The hearing was resumed and the State informed the Board that a new settlement agreement had been reached. The State read the changes of the

new agreement and asked the Board to accept it. The Agreement read as follows:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action.
2. The parties execute this Agreement voluntarily.
3. Respondent and Petitioner voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.
4. Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's license arising from this Complaint.
5. Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.
6. Respondent shall be placed on indefinite probation. Respondent shall remain on probation for a minimum of five (5) years, and will be able to apply to modify his probation after (5) five years of successful probation. Respondent's probation shall be monitored with the following terms and conditions:
 - A. Respondent shall keep the Board apprised of his current home address, mailing address and phone number; his place of employment, employment phone number and name of any supervisor; and his occupation title, work schedule, and hours worked per week.
 - B. Respondent shall provide a copy of all Board orders imposing discipline or limiting practice to his employer, if any, who shall sign and return a copy of such orders to the Board within seven (7) days of employment or receipt of the order.
 - C. Respondent shall cause his employer to submit reports to the Board advising the Board of his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others on a monthly basis. After the first year, Respondent can petition for quarterly reports, Respondent understands it is his responsibility to ensure his employer submits the reports in a timely manner.
 - D. Respondent shall attend personal appearances before the Board on a monthly basis. Respondent can petition to modify after the first year for quarterly appearances.
 - E. Respondent shall remain compliant with all terms of his contract with the Indiana State Medical Association's Physician Assistance Program and his monitor shall submit timely quarterly reports to the Board advising of his status.
 - F. Respondent shall remain compliant with all terms of his recovery program administered by Rush and his addictionologist shall submit quarterly reports to the Board advising of his status.
 - G. Respondent has a duty to notify the Board in writing within twenty-four (24) hours of any relapse.
 - H. When DEA is comfortable with the reinstatement of Respondent's DEA number, Respondent may petition for the Board for approval to reinstate his DEA number. Once his DEA number is reinstated, Respondent will present a log of all prescribing practices at his personal appearance.
 - I. Respondent agrees to pay a civil fine in the amount of \$2,000.00 to the State of Indiana within 90 days from the date of the final order.
 - J. Respondent promises to notify and submit a copy of this Final Order to the Texas and California Dental Boards.
 - K. Respondent shall complete 15 hours of continuing education on the topic of ethical prescribing, pre-approved by the Board, and submit verification of said hours to the Board within ninety (90) days of the final order.

L. Respondent further understands that failure to comply with the Board's order may result in the State requesting an emergency suspension of Respondent's license, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Indiana Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

7. The parties agree to the continuing jurisdiction of the Board

8. Respondent agrees to pay for a copy of the transcript of the proceedings related to presentation of the settlement agreement before the Board, the copy of which will be kept in Respondent's file to memorialize the proceeding. Said payment should be made to Sherri Rutledge c/o/ Cindy Vaught - State Board of Dentistry at the Indiana Professional Licensing Agency ("IPLA"). The cost of the transcript will be provided by the IPLA following the date of the settlement presentation and shall be paid within ninety (90) days of the Final Order.

Board Action: A motion was made and seconded to accept the proposed settlement agreement.

HALLER/NEWTON
Motion carried 8-0-1
Dr. Williams abstained

VI. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Board.

VII. NOTICE OF PROPOSED DEFAULT

There were no Notices of Proposed Default before the Board.

VIII. OLD/NEW BUSINESS

There was no old/new business before the Board.

IX. DISCUSSION

A. Reporting of a Permanent Injury

The Board discussed a question that was posed in an email concerning the reporting of a permanent injury. The question was about a patient whose tongue was partially numb, the incident happened two years ago and after reading the IDA journal she was not sure if she needed to report it. The Board discussed lingual nerve paresthesia as a condition that often happens and cannot be controlled or avoided when it happens. They discussed perhaps a need to define to permanent injury and what injuries may be expected or unexpected possibilities as the result of a treatment. Advisory counsel noted that the mandatory reporting law is 828 IAC 1-1-22 and its intent is for a permanent injury that is unusual and would not be expected in the course of treatment. The Board asked the IDA to use a less ambiguous example when teaching their courses such as swallowing something or accidentally cutting tissue with a scalpel that should not have been cut to put a clearer message out to dentists. Furthermore the Board noted that just because a permanent injury gets reported does not mean that it will result in a disciplinary action being taken.

B. Procedures Performed by a Dental Hygienist

The Board reviewed an email question from a dental hygienist asking if a dental hygienist can clean the exposed area when a general dentist performs a flap procedure". The Board decided to table their answer to this question because there is current proposed legislation that will address several issues.

C. Amy Nunez, L.D.H.

Ms. Nunez had asked the Board to accept some college courses she had taken towards earning her Bachelor of Science degree in Dental Hygiene. Dr. Newton reviewed the course syllabi and determined that those courses can be used to fulfill her continuing education requirement.

Board Action: A motion was made and seconded to approve the college courses for continuing education credits.

NEWTON/WHITMORE
Motion carried 8-0-0
Dr. Williams was not present

X. APPLICATION REVIEW

A. Endorsement

1. Ruthie Jimerson, D.D.S.

Dr. Catey reviewed the endorsement application file for Ruthie Jimerson. Dr. Jimerson is a 1987 graduate of the Meharry Medical College. She has taken and passed Part I and II of the National Boards and NERB examination in 1986 and 1987. Dr. Jimerson is licensed in the state of Ohio and Michigan and holds an expired license in the state of Illinois. On her application she answered "no" to all questions but her Healthcare Integrity and Protection Data Bank report revealed she had defaulted on a public health service education loan in 1996. She explained in a written statement that the interest payments were so large she would never have been able to pay off the loan. She stated she petitioned the Department of Justice and the loan was written off with the understanding that she would not bill Medicaid in the State of Ohio.

Board Action: A motion was made and seconded to approve Dr. Jimerson's application for dental licensure upon passing the law exam.

CATEY/WILLIAMS
Motion carried 9-0-0

B. Examination

There were no examination applications for the Board to review.

C. Anesthesia and Sedation Permits

There were no anesthesia and sedation permits.

D. Dental Intern Permit

There were no dental intern permit applications to review.

E. Mobile Dental Facility

There were no mobile dental facility applications to review.

F. Professional Corporations

There were no professional corporation applications to review.

XII. PROBATIONARY REPORT

A. Penelope Lynn Dunlap, D.D.S.

Dr. Dunlap is in compliance with the terms and conditions of her probationary order. Dr. Dunlap has not submitted her report of speaking to senior year dental students at Indiana University. Per a telephone call from Dr. Goblatt at Indiana University, they are still trying to arrange a speaking engagement with the students as per her probationary order. Dr. Dunlap and the Indiana University will notify the Board as soon as this arranged.

XIII. CONTINUING EDUCATION

A. Jay Platt, D.D.S.

Board Action: A motion was made and seconded to approve Jay Platt, D.D.S. as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

MILLER/WILLIAMS
Motion carried 9-0-0

B. OCO Biomedical, Inc.

Board Action: A motion was made and seconded to approve OCO Biomedical, Inc. as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

NEWTON/MILLER
Motion carried 9-0-0

C. Implant Restorative Study Club

Board Action: A motion was made and seconded to approve Implant Restorative Study Club as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

LaTURNER/WILLIAMS
Motion carried 9-0-0

D. MJM Sales & Consulting, Inc.

Board Action: A motion was made and seconded to approve MJM Sales & Consulting, Inc. as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

NEWTON/WHITMORE

Motion carried 9-0-0

E. Indiana Oral & Maxillofacial Surgery Associates

Board Action: A motion was made and seconded to approve Indiana Oral & Maxillofacial Surgery Associates as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

HOLLAR/MILLER
Motion carried 9-0-0

F. Aegis Progressive Solutions

Board Action: A motion was made and seconded to approve AEGIS Progressive Solutions as a continuing education provider for the 3/1/2008 – 3/1/2010 biennium.

NEWTON/MILLER
Motion carried 9-0-0

XIV. REPORTS

- A.** At the direction of President Burns, Ms. Whitmore reported that she worked with Ms. Vaught and Advisory Counsel, Liz Brown on a draft of a letter to the dental hygiene programs stressing that all personal need to hold a current license in order to practice in the state of Indiana. Ms. Brown stated she will review the letter and report back to the Board.
- B.** Dr. Haller provided the Board with a draft of the information he has gathered on license renewal and remediation for the Northeast Regional Board Examination.
- C.** Advisory Counsel, Liz Brown, updated the Board with regards to the teeth whitening issue. She explained that any press release the Board wants to release needs to be reviewed by the Governor's office first. She is still working on the draft letter.
- D.** Dr. Miller reported that at the last Controlled Substance Advisory Committee meeting Dr. Cahillane appeared regarding the renewal of his controlled substance registration. His DEA registration was reissued a year ago and he has been writing prescriptions since that time. Dr. Cahillane was unaware that his CSR was expired until he was notified by the Board. The Committee tabled acting on his CSR renewal.
- E.** Ms. Vaught reported to the Board that she had a call from a dentist who was denied placing an order for Botox by the manufacturer. The manufacturer told the dentist it was because it was prohibited by Indiana law. She advised that she is not aware of anything in the law prohibiting the purchase of Botox by dentists.
- F.** Dr. Catey addressed the issue of sterilization testing being done now on a weekly basis instead of monthly. He stated the results take a few weeks to get back and cannot see the purpose of the increased testing. The Board discussed the various ways they are handling the weekly testing.
- G.** Dr. Williams discussed the owners of dental corporations and suggested sending them a letter informing them that if they provide directives to the dentists practicing in the office, such as dictating policy for diagnosis and treatment which interferes with a dentist's judgment, then they are considered to be practicing

dentistry and would be subject to lawsuits. The Board decided that this type of information would work best in a board newsletter for general information purpose.

XV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana State Board of Dentistry adjourned at 12:00 p.m.


Jill Burns, D.D.S., President

3-7-08
Date


Galen Williams, D.D.S., Secretary

3/7/08
Date